

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JAMES W. CARROLL and
DOROTHY M. CARROLL,

Plaintiffs,

vs.

SILAC INSURANCE COMPANY
formerly d/b/a Equitable Life &
Casualty Insurance Company, and
JOHN DOES 1-20.

Defendants.

CV 20–155–M–DLC

ORDER

Before the Court is Plaintiffs’ Unopposed Motion for Substitution of Parties and Request for Waiver of Hearing. (Doc. 22.) Based on incapacity and pursuant to Federal Rule of Civil Procedure 25, Plaintiffs move to substitute David and Della Clark, in their capacities as Plaintiffs’ co-guardians and co-conservators, for named parties in place of James W. Carroll and Dorothy M. Carroll. (*Id.* at 1–2.) Plaintiffs indicate that Defendant SILAC Insurance Company (“SILAC”) does not oppose the motion. (*Id.* at 6.) Plaintiffs have also filed acknowledgments of service of the motion on behalf of both Mr. and Ms. Clark. (Docs. 23, 24.)

In this instance, the Court agrees with Plaintiffs that any hearing as contemplated by Rule 25 would constitute an unnecessary procedural redundancy, as both Plaintiff James W. Carroll and Plaintiff Dorothy M. Carroll were

adjudicated incapacitated on May 20, 2021 by a Montana district court judge. (Docs. 22-9, 22-10.) The court went on to appoint David and Della Clark as Plaintiffs' co-guardians and co-conservators. (*Id.*) The Court finds no authority that Rule 25 mandates a hearing in these circumstances. *Cf. Sullivan v. Running Waters Irrigation, Inc.*, 739 F.3d 354, 359 (7th Cir. 2014) (potential successor in interest not entitled to a Rule 25 evidentiary hearing *per se* in the absence of a request for a hearing or a showing of what such a hearing would disclose).

Accordingly, IT IS ORDERED that the motion (Doc. 22) is GRANTED. David Clark and Della Clark as co-guardians and co-conservators of James W. Carroll and Dorothy M. Carroll are substituted as Plaintiffs in this matter, and any obligation to conduct a hearing as contemplated by Rule 25 is waived.

IT IS FURTHER ORDERED that the caption in this case is AMENDED as follows:

DAVID CLARK and DELLA CLARK,
as co-guardians and co-conservators for
JAMES W. CARROLL and
DOROTHY M. CARROLL,

Plaintiffs,

vs.

SILAC INSURANCE COMPANY
formerly d/b/a Equitable Life &
Casualty Insurance Company, and
JOHN DOES 1-20.

Defendants.

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DATED this 1st day of June, 2021.



Dana L. Christensen, District Judge
United States District Court